COMMON CARRIERS—DUTY TOWARD HACKMEN AT DEPOTS—MAY DISCRIMINATE.—Plaintiff railroad company secured a decree in the federal circuit court of appeals for Illinois restraining defendant hackmen, members of a hackmens' union, from soliciting custom in its passenger station (The Union Station) at Canal and Adams Streets, Chicago, and from congregating on the sidewalk in front of said station so as to interfere with the movements of passengers and employes. Plaintiff had entered into a contract with the Parmalee Transfer Company to exclusively handle this sort of business, and defendants contended that, as common carriers, they were entitled to the same privileges as the Parmalee Company. *Held,* that the injunction was properly issued. *Donovan et al.* v. *Pennsylvania Company* (1905), 26 Sup. Ct. Rep. 91.

This case first arose in the federal circuit court in 1902, 116 Fed. Rep. 907; and the decree there granted was broader than the one above in that it prevented the defendants from congregating at all upon the sidewalk in front of the station in order to solicit business. This was modified, however, on appeal to the circuit court of appeals, 120 Fed. Rep. 215, as above, on the ground that congregating in general was a matter only of public concern, and could not be restrained at the private suit of the plaintiff until it interfered with its passengers or employes. See *Pennsylvania Co.* v. *Chicago* (1899) 181 Ill. 289, 54 N. E. Rep. 825. For full discussion of the law concerning the soliciting of custom on the carrier's premises, see *State ex rel Sheets, Atty.-Gen.* v. *Union Depot Co.* (1905) 73 N. E. Rep. (Ohio) 633, and *Hedding* v. *Gallagher* (1903) 57 Atl. Rep. 225, 72 N. H. 377. See also 3 MICH. LAW REV. 572. A list of cases on both sides of the question is given in 120 Fed. Rep. 215 (supra) and a list of cases sustaining the principal case in 26 Sup. Ct. Rep. 96 and 97 (note). The Supreme Court declares in the principal case that the rule it there lays down is sustained by the clear weight of authority, but this is denied by 26 AM. & ENG. ENCY. OF LAW (2nd Ed.) 505 and in 13 L. R. A. 848 (note to *Cole* v. *Bowen*), the cases cited by these two authorities basing their decisions upon the ground that the recognition of such a rule would be detrimental to public policy in that it would tend to create a monopoly. These cases, however, are most of them older than those relied upon by the Supreme Court, and it was pointed out by that court that the public is not concerned with the manner in which a common carrier performs its duties provided good service is given, and that a carrier is not bound to give hackmen equal privileges any more than express or sleeping car companies. See *Express Cases,* 117 U. S. 1, 6 Sup. Ct. Rep. 542, 628, and *Chicago, St. L. & N. O. Ry. Co.* v. *Pullman Southern Car Co.* (1890) 139 U. S. 79, 87, 11 Sup. Ct. Rep. 490. A common carrier may give one individual the exclusive right of soliciting transfer business upon its trains. *Lewis* v. *Weatherford* (1904) 81 S. W. Rep. (Tex.) 111.

CONSTITUTIONAL LAW—IMPAIRING OBLIGATION OF CONTRACT—CONTRACTS WITH WATERWORKS COMPANIES.—Plaintiff made a contract with defendant whereby it was agreed that the contract should continue in force for thirty years from date, and that plaintiff might charge prices not to exceed certain maximum rates for water furnished defendant. *Held,* A bill to enjoin the

enforcement of an ordinance reducing maximum rates, on the ground that such ordinance impaired the obligation of a contract between plaintiff and defendant, should be dismissed. *Tampa Waterworks Company* v. *City of Tampa* (1905), — Fla. —, 26 Sup. Ct. Rep. 23.

The city justified under Section 30, article 16 of the State Constitution and also under an act of the Legislature (1901). One of the provisions of its charter read: "City council shall have power to make ordinances—not inconsistent with the constitution of this state—to provide for the establishment of waterworks, etc." Section 30, article 16, of the state constitution subjects city waterworks companies to regulations as to prices at the will of the Legislature. Hence, it may be argued that every contract made with them by the Legislature or city, is made subject to and in contemplation of the possibility of a subsequent exercise of the power which by said act is vested in the Legislature. Waterworks companies, obtaining their franchises from the municipality, assume duties of a public nature and may, therefore, be required to charge reasonable rates. Such requirement does not deprive them of their property without due process of law. *Munn* v. *Illinois*, 94 U. S. 113 (1876). See *Spring Valley Waterworks Co.* v. *Schottler et al.* 110 U. S. 347 (1884), holding that subsequent laws, taking away from company power to name members of the Board of Commissioners and placing in municipal authorities the power to fix the rates for water, violate no provision of the United States Constitution. See also *Freeport Water-works Company* v. *Freeport City*, 180 U. S. 587 (1901), and *Knoxville* v. *Knoxville Water-works Company*, 107 Tenn. 672 (1901), holding the power of city to regulate water rates is a continuing power and not exhausted by a single exercise of it. However just the decision in this case may be, it was dissented to by two justices on the ground that the ordinance impaired the obligation of the contract formerly made between the plaintiff and defendant and referred to in the provision of the act which stated, "this act shall not be construed as to impair the validity of any valid contract heretofore entered into for the supply of water to such city, etc." JUSTICE BROWN, dissenting, says:— "Now, as the constitution only delegated to the Legislature the power to authorize the corporate authorities to reduce rates, and the Legislature delegated that power only in cases where it did not impair the validity of any contract, it seems to me clear that the city council of Tampa exceeded its authority in reducing rates protected by the contract."

CONSTITUTIONAL LAW—LICENSE FOR ISSUING TRADING STAMPS.—A city ordinance requiring the payment of a $400 license tax by merchants issuing trading-stamps, *held* not discriminative, even though merchants with the same amount of capital, not issuing trading stamps, were required to pay a license tax of only $24. *Gamble* v. *City Council of Montgomery* (1905), — Ala. —, 39 So. Rep. 353.

From the nature of things any ordinance providing for the imposition of a license fee must, by its very terms, create distinctions which a willing court may seize upon to justify the validity of such regulation. The conclusion here reached is not supported by argument, but as the issuing of trading stamps by merchants is not a business in itself, but is simply an advertising